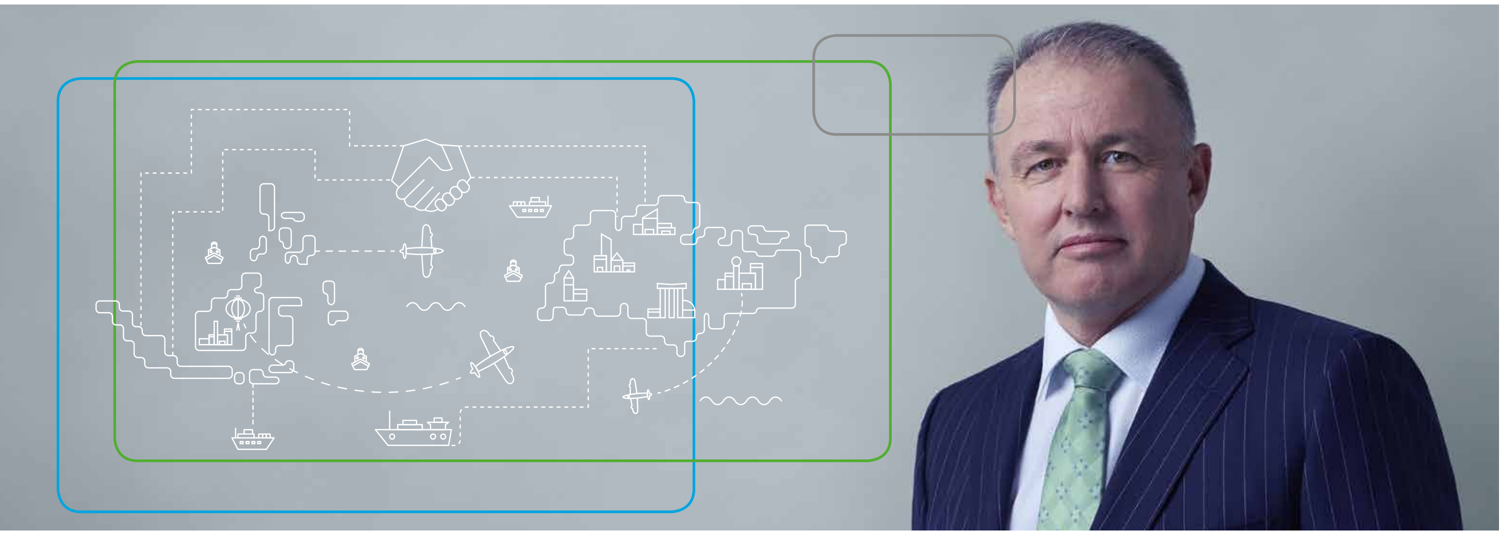

PENALTY FOR NOT COMPLYING WITH COUNTRY-BY-COUNTRY REPORTING OBLIGATIONS INCREASED TO UP TO EUR 820,000

On April 18,2017 the Dutch parliament approved the bill submitted on January 17,2017, which was partially modified on March 21, 2017. In a recent alert, we discussed the amendments proposed on March 21,2017 to the bill on country-by-country reporting (CbCR) submitted to the parliament. The bill was aimed to implement Council Directive (EU) 2016/88 of May 25, 2016 into the Dutch legislation.

Overview to the approved bill

The main features of the bill approved by the parliament are the following:

- The penalty for not compliance with CbCR obligations was increased up to EUR 820,000.
- This penalty will apply as from June 5, 2017, and includes as well not compliance with CbCR notification obligations.
- The addition of a new article, that provides the legal basis for the automatic exchange of CbCR with Member States.
- CbCR will be exchanged within 15 months of the last day of the period to which the report pertains (18 months for the first reporting period commencing on or after 1 January 2016).
- The possibility to designate a group entity within the European Union as the reporting entity for all the group entities resident in the Member States.

When the bill was discussed the initiatives of some members of the parliament were rejected, including:

- To lower the threshold for complying with CbCR to EUR 40 million; and
- To require that the ultimate parent of groups obliged to file CbCR to make the report publicly available by lodging it within eight days to the trade register.

The above initiatives were broadly aligned with the existing proposal from the European parliament on public CbCR, which will be voted on May 31, 2017 at the European parliament.

Take away

Although the deadline for submitting CbCR notifications to the Dutch Tax Authorities is not very near (i.e. before September 1, 2017), the increased penalty can be very material, consequently special care should be paid to ensuring compliance with the Dutch CbCR obligations. Furthermore the deadlines for filing CbCR in some countries such as China, Chile and Brazil are earlier than the deadline proposed by the OECD. Thus, multinationals, in particular those having an ultimate parent resident for tax purposes in the United States and operations in any of the afore mentioned countries, are required to verify what could be the implications in case that the United States do not conclude a competent authority agreement for exchanging CbCR with these countries. Finally, it is anticipated that soon all European Union member countries will transpose the above mentioned Directive into their legislation, and consequently penalties for not complying with CbCR obligations could be implemented (if not increased) in the legislation of all European Union countries. Therefore special attention to the developments in the field of CbCR should be monitored on frequent basis.